

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

JEFFREY SHIMONEK,)	
)	
Plaintiff,)	8:04CV297
)	
v.)	
)	
WERNER ENTERPRISES, INC.,)	MEMORANDUM AND ORDER
)	
Defendant.)	
_____)	

This matter is before the Court on defendant's motion for summary judgment (Filing No. 26), filed on August 12, 2005. Plaintiff Jeffrey Shimonek ("Shimonek") contends that the defendant, Werner Enterprises, Inc. ("Werner" or "defendant") terminated his employment because he had a disability or was regarded by Werner as having a disability. Shimonek asserts his claim under the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.* ("ADA") and the Nebraska Fair Employment Practices Act ("NFEPA"), Neb. Rev. Stat. § 48-1101, *et seq.* The Court has reviewed the motion, briefs, evidentiary submissions, and the applicable law and finds that defendant's motion should be denied. Accordingly,

IT IS ORDERED:

1) Defendant's motion for leave to file a reply brief (Filing No. 32) is granted.

2) Defendant's motion for summary judgment is denied. Trial of this matter shall commence on **Monday, October 24, 2005, at 9 a.m.** as previously scheduled.

DATED this 29th day of September, 2005.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court